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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,701	12/04/2003	Kazushige Hatori	00862.023346.	9227
5514 7590 03/17/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
MCCOMMAS, BRENDAN N				
ART UNIT		PAPER NUMBER		
2625				
MAIL DATE		DELIVERY MODE		
03/17/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/726,701

## Applicant(s)

HATORI ET AL.

## Examiner

BRENDAN MCCOMMAS

## Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/29/2010 has been entered.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 17-22** is rejected under 35 U.S.C. 103(a) as being anticipated by Miyahara (United States Patent 6,956,665) further in view of Owa et al. (United States Patent 6,348,971) hereinafter referenced Owa.

3. **Regarding claim 17**, Miyahara discloses a print server, method and system capable of handling different kinds of data. In addition Miyahara discloses a print service system, where all the devices are connected to each other, comprising:

4. an acquiring unit adapted to acquire a designated type of print devices for printing a content based on a print order, as disclosed in column 8, lines 26-42;

5. a judging unit adapted to judge whether or not the print order for the content indicates in color printing, as disclosed in column 8, lines 26-42; and
6. an assigning unit adapted to control the printing of the content so as to generate a plurality of print jobs based on the print order, assign the generated plurality of print jobs to a plurality of print devices having a designated type matching with the print order, respectively, and print the content using the print order for the plurality of print devices when said first judging unit judges that the print order for the content does not indicate in color printing, but so as to generate a single print job based on the print order, assign the generated single print job to a single print device selected from among a plurality of print devices having a designated type matching with the print order, and print the content using the assigned single one print device having the designated type when said first judging unit judges that the print order for the content indicates in color printing, (In this case the plurality of jobs are all black and white and so are sent to different black and white printers on the network, and when the job is all color it is sent to the only one printer that is color on the network, and the data is not mixed in the jobs between black and white) as disclosed in column 8, lines 44-67 and column 9, lines 52-67.
7. However Miyara fails to explicitly disclose an assigning unit adapted to determine whether to use a plurality of print devices having the designated type or a single print device having the designated type on printing the content in accordance with a judged result by said first judging unit, wherein said assigning unit determines to use the plurality of print devices when said first judging means judges that the print order

does not indicate color printing or to use the single print device when said first judging means judges that the print order indicates color printing and wherein the assigning unit determines the plurality of devices or the single device depending on the designated type. However it would have been obvious to one of ordinary skill in the art at the time of the invention to make such a modification to the invention of Miyahara, as taught by Owa. In a similar field of endeavor, Owa discloses a printing system and printing method for selecting an optimum printing for printing. In addition Owa discloses a determination unit, which is controlled by the user and is adapted to determine whether to use a plurality of print devices having the designated type or a single print device having the designated type on printing the content in accordance with a judged result by said first judging unit, wherein said determination unit determines to use the plurality of print devices when said first judging means judges that the print order does not indicate color printing or to use the single print device when said first judging means judges that the print order indicates color printing and wherein the determination unit determines the plurality of devices or the single device depending on the designated type, (when the selection leads to only 1 printer on the network meeting the color requirement) as disclosed in column 5, lines 63-67 and column 6, lines 1-27, and column 14, lines 16-67. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include the modification of for the purpose of streamlining the printing process in a printer network, as disclosed in Owa column 3, lines 1-15.

8. **Claims 18-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyahara (United States Patent 6,956,665), further in view of Owa et al. (United States

Patent 6,348,971) hereinafter referenced Owa, further in view of Tanaka (U.S. Patent Publication 2002/0093680).

9. **Regarding claim 18**, Miyahara and Owa disclose everything claimed as applied above (see claim 11).
10. However Miyahara fails to explicitly disclose the system further comprising a wherein the print order is determined by a log of the print history. However it would have been obvious to one of ordinary skill in the art to include such a modification to Miyahara, as disclosed in Tanaka
11. In a similar field of endeavor, Tanaka discloses a print system. In addition Tanaka discloses wherein the print order is determined by a log of the print history, as disclosed in [0054].
12. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Miyahara, to include the modifications of Tanaka for the purpose of reprinting any failed print attempts stored in the history, as disclosed in [0004]-[0007].
13. **Regarding claims 19-22**, Miyahara, Owa and Tanaka disclose everything claimed as applied above (see claim 17-18). In addition claim 19-22 are interpreted and rejected for the reasons set forth in the rejection of claim 17-18. Claim 19-22 describes an apparatus, and claim 17-18 describes the specific method used to implement the apparatus. Thus claims 19-22 are rejected.

#### ***Response to Arguments***

12. Applicant's arguments filed 01/29/2010 have been fully considered but they are

moot on the new grounds of rejection. On page 7 of the Applicant's arguments, the Applicant argues, 'However, Miyahara fails to disclose or suggest assigning a plurality of print jobs included in a print order to a plurality of print devices of an acquired type, dispersively, when it is judged that the print order does not indicate color printing, and assigning the plurality of print jobs included in the print order to a print device of a plurality of print devices of the acquired type, together, when it is judged that the print order indicates color printing' However the examiner respectfully disagrees and points to the disclosure in column 8, lines 55-67, and the scenario where in the network there is only one color device, and the color job data is sent there while, there are multiple black and white printers, and the black and white data from the black and white job is sent there.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRENDAN MCCOMMAS whose telephone number is (571)270-3575. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler Haskins can be reached on (571)272-7406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Brendan N. McCommas/  
Examiner, Art Unit 2625

/B. M./  
Examiner, Art Unit 2625

/Twyler L. Haskins/  
Supervisory Patent Examiner, Art Unit 2625